

Message Text

UNCLASSIFIED

PAGE 01 STATE 184675

72

ORIGIN OPIC-12

INFO OCT-01 AF-10 ISO-00 EB-11 L-03 SPC-03 AID-20 CIAE-00

COME-00 FRB-02 INR-10 NSAE-00 TRSE-00 XMB-07 CIEP-02

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R 172205Z SEP 73

FM SECSTATE WASHDC

TO AMEMBASSY COTONOU

UNCLAS STATE 184675

E.O. 11652: N/A

TAGS: EFIN, DM

SUBJ: OPIC INSURANCE AND GUARANTIES FOR CONSTRUCTION PROJECTS

1. THE BILATERAL INVESTMENT GUARANTY AGREEMENT IN FORCE BETWEEN THE UNITED STATES GOVERNMENT AND THE MRGD STIPULATES THAT THE USG (OPIC) SHALL NOT INSURE OR GUARANTY ANY PROJECT WHICH HAS NOT BEEN APPROVED BY THE MRGD. INVESTMENT APPROVAL PROCEDURES HAVE BEEN ESTABLISHED UNDER WHICH PROJECTS ARE NORMALLY APPROVED BY THE MRGD FOR OPIC INSURANCE OR GUARANTIES IN RESPONSE TO A SPECIFIC REQUEST BY THE U.S. APPLICANT. THE PURPOSE OF THIS PROCEDURE IS TO ASSURE THAT THE USG WILL NOT BE INSURING OR GUARANTYING AN INVESTMENT CONNECTED WITH A PROJECT NOT ACCEPTABLE TO THE MRGD.

2. THE US CONSTRUCTION INDUSTRY HAS REPEATEDLY REQUESTED OPIC TO INSTITUTE AN APPROVAL SYSTEM UNDER WHICH THE AVAILABILITY OF OPIC POLITICAL RIS INSURANCE CAN BE KNOWN TO U.S. BIDDERS AT THE TIME
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PAGE 02 STATE 184675

THE PREPARE AND SUBMIT BIDS TO FOREIGN GOVERNMENTS. THE DELAY IN

COMMENCEMENT OF POLITICAL RISK INSURANCE UNDER PRESENT PROCEDURES HAS DEPRIVED U.S. CONTRACTORS OF COVERAGE DURING SUBSTANTIAL PERIODS OF TIME. SUCH DELAY, COMBINED WITH THE UNCERTAINTY OF EVENTUAL COVERAGE, HAS ADVERSELY AFFECTED U.S. CONSTRUCTION COMPANIES IN PREPARING BIDS.

3. WHERE AN AWARD OF CONSTRUCTION CONTRACT BY A HOST GOVERNMENT OR AN AGENCY THEREOF HAS BEEN MADE TO AN AMERICAN CONTRACTOR, IT IS THE VIEW OF OPIC THAT THE CONTRACT AWARD BY THE HOST GOVERNMENT OR AGENCY CAN BE CONSIDERED TO BE A SATISFACTORY PROJECT APPROVAL FOR POLITICAL RISK INSURANCE OR GUARANTY PURPOSES. THE SELECTION OF AN AMERICAN BIDDER UNDER THESE CIRCUMSTANCES REFLECTS GOVERNMENT APPROVAL BOTH OF THE PROJECT AND OF THE U.S. CONTRACTOR BY THE GOVERNMENTAL AGENCY DIRECTLY CONCERNED. ELIMINATION OF THE NEED FOR A SECOND, SUBSEQUENT APPROVAL, OFTEN FROM AN ENTIRELY DIFFERENT MINISTRY OR AGENCY, WILL ALLOW OPIC TO MAKE INSURANCE AVAILABLE PROMPTLY TO A U.S. CONTRACTOR UPON HIS SELECTION TO PERFORM THE WORK, WITHOUT PREJUDICE TO ANY IMPORTANT HOST GOVERNMENT INTEREST. SUCH AUTOMATIC INSURANCE APPROVAL SHOULD HAVE SIGNIFICANT BENEFITS TO COOPERATING HOST COUNTRIES BY INCREASING THE NUMBER OF U.S. CONTRACTORS SUBMITTING BIDS AND REDUCING CONTINGENCY FACTORS NOW INCLUDED IN BIDS TO PROVIDE FOR UNINSURED POLITICAL RISKS.

4. ALTHOUGH THIS SPECIFIC REQUEST IS GENERATED BY THE GODOMEY-MALANVILLE HIGHWAY PROJECT ON WHICH BIDS WILL BE OPENED ON OCTOBER 15, 1973, OPIC WISHES TO INSTITUTE A PROCEDURE THROUGH WHICH ALL U.S. CONTRACTORS DESIRING INSURANCE ON ANY PARTICULAR GOVERNMENT-AWARDED CONTRACT CAN REGISTER WITH OPIC BEFORE MAKING A BID, AND RECEIVE APPROPRIATE ASSURANCES THAT OPIC COVERAGE WILL BE AVAILABLE TO AN AMERICAN COMPANY RECEIVING THE AWARD. TO ACHIEVE THE AUTOMATIC APPROVAL SYSTEM DESIRED, WITH FULL MRGD CONSENT, A SUPPLEMENTAL UNDERSTANDING WITH THE MRGS IS NECESSARY. THE ENCLOSED DRAFT NOTE IS DESIGNED TO ACCOMPLISH THIS OBJECTIVE.

5. ACTION REQUESTED:

THE EMBASSY IS REQUESTED ON A PRIORITY BASIS TO DELIVER THE ENCLOSED DRAFT NOTE TO THE MRGD, AND TO ASK FOR A RESPONSE BY OCTOBER 1. THE EMBASSY SHOULD CABLE A SUMMARY OF THE RESPONSE TO UNCLASSIFIED

UNCLASSIFIED

PAGE 03 STATE 184675

OPIC. IF THE EMBASSY BELIEVES THAT THE NOTE SHOULD NOT BE DELIVERED, IT IS REQUESTED TO CABLE ITS REASONS TO WASHINGTON PROMPTLY.

6. TEXT.

EXCELLENCY:

I HAVE THE HONOR TO REFER TO THE AGREE (SEE FOOTNOTE BELOW) BETWEEN OUR TWO GOVERNMENTS ON THE SUBJECT OF UNITED STATES GOVERNMENT INVESTMENT INSURANCE AND GUARANTIES AND TO THE PARAGRAPH OF THAT AGREE WHICH PROVIDES THAT THE UNITED STATES GOVERNMENT WILL ISSUE NO INSURANCE OR GUARANTY WITH REGARD TO ANY PROJECT UNLESS IT IS APPROVED BY THE GOVERNMENT OF DAHOMEY.

WHEN THE GOVERNMENT OF DAHOMEY OR AN AGENCY THEREOF HAS ENTERED INTO A CONSTRUCTION CONTRACT WITH A PRIVATE UNITED STATES CONSTRUCTION FIRM, THE UNITED STATES GOVERNMENT IS WILLING TO CONSIDER THE AWARD OF SUCH A CONSTRUCTION CONTRACT AS AN INDICATION OF APPROVAL OF THE PROJECT BY YOUR GOVERNMENT UNDER THE AFOREMENTIONED PARAGRAPH OF THE SUBJECT AGREEMENT. NO FURTHER APPROVAL SHALL BE REQUIRED TO ENABLE THE UNITED STATES GOVERNMENT TO ISSUE INSURANCE OR GUARANTIES FOR SAID CONSTRUCTION PROJECT. THE UNITED STATES GOVERNMENT TRUSTS THAT THIS ALSO REPRESENTS THE VIEW OF THE GOVERNMENT OF DAHOMEY.

THIS SPECIAL APPROVAL PROCEDURE SHALL PERTAIN ONLY TO CONSTRUCTION CONTRACTS BETWEEN YOUR GOVERNMENT OR AN AGENCY THEREOF AND PRIVATE UNITED STATES CONSTRUCTION FIRMS FOR SUCH PROJECTS AND SHALL BE IN LIEU OF THE REGULAR APPROVAL PROCEDURES ESTABLISHED BETWEEN OUR TWO GOVERNMENTS FOR THE APPROVAL OF PRIVATE DIRECT INVESTMENTS TO BE THE SUBJECT OF UNITED STATES GOVERNMENT INSURANCE OR GUARANTIES.

I WOULD APPRECIATE RECEIVING YOUR EXCELLENCY'S CONFIRMATION THAT THIS PROCEDURE IS ACCEPTABLE TO THE GOVERNMENT OF DAHOMEY.

ACCEPT, EXCELLENCY.....

7. THE EMBASSY, AT ITS DISCRETION, MAY INSERT THE APPROPRIATE DATE OF THE INVESTMENT GUARANTY AGREEMENT WITH THE MRGD OR DATES
UNCLASSIFIED

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PAGE 04 STATE 184675

OF THE EXCHANGE OF NOTES EFFECTING SAID AGREEMENT. RUSH

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